

**CEMETERY TASK FORCE
MEETING MINUTES
1400 EAST WASHINGTON AVENUE, MADISON
APRIL 23, 1999**

- PRESENT:** Thomas Hanlon, Ed Huck, Dorinda Floyd, Sarah Kamke, Marie Drescher, Daniel Kilkenny, E. Glen Porter, III, Jon Ruatti, William Cress, Laurel Schaftary, Leslie Eisenberg, Dewey Mathewson, Bill Smith, and Richard Stadelman.
- EXCUSED:** Kelly Coleman, Williams Downs, III, Leroy Mixon, Willa Jean Moore, Michael Schuman, and David Stucki.
- R&L STAFF:** Secretary Marlene Cummings, Cletus Hansen, Becky Fry Jacquelynn Rothstein, Steven Gloe, Todd Liebergen and Gene Kleinert.
- GUESTS:** Peter Christianson, George Petak and others.

CALL TO ORDER

Clete Hansen called the meeting to order at 9:36 a.m.

APPROVAL OF AGENDA

The agenda were informally approved.

APPROVAL OF MINUTES (02/19/99)

- MOTION:** Jon Ruatti moved, seconded by Ed Huck, to approve the minutes with several corrections on page 3. Motion 1 “person” should be plural, Motion 2, change William Downey to William Downs, III, and “person” should be plural, Motion 3 change “standard” to plural and add “ed” to “establish.” Motion carried unanimously.

ADMINISTRATIVE REPORT

Secretary Marlene Cummings

Secretary Cummings welcomed Task Force members and guests. She explained that much time was spent viewing comments made by Task Force members, reading letters and talking to other people about the funeral industry. She also explained the purpose of the Task Force, the goals of the Task Force and the criteria used for decision making by the Department. She explained that the single purpose for the Task Force is to promote the general and economic well-being of the consumer of services provided by our industries. She explained the funeral directors and ceterians need to work together to have regulations that work for everyone and that these regulations will impact the industry through the next millennium.

Clete Hansen, Division Administrator

The Task Force members received a copy of a newspaper article regarding an offer made for Evergreen Cemetery land and pages from the Biennial Budget Bill that affect cemeteries. Mr. Hansen passed around to the Task Force members, a CD software package for managing cemeteries.

DISCUSSION OF POTENTIAL STATUTORY CHANGES

Creating a combined board

Oregon is currently the only state with a combined board.

Secretary Cummings pointed out that cemeterians and funeral directors are very different but have a common subject, “human remains,” and should work together. There should be a correlation between funeral directors and cemeterians.

Others pointed out that just because the funeral directors and cemeterians look the same to the public, they should not necessarily be regulated the same.

Cemeterians are regulated by the Department of Regulations and Licensing (DRL) and funeral directors by the Funeral Directors Examining Board. DRL reviews the recommendations of the Cemetery Advisory Committee but DRL has the final decision.

Changing the structure of the Funeral Directors Examining Board would require a legislative change.

Define “Cemetery”

A Task Force member stated that “cremains” should be included in the definition of “cemetery.” The basic concern is why should cremated remains be treated with any less dignity than regular remains. Cremated remains should be included for final disposition.

Secretary Cummings’ concern is that if we use cremated remains in the definition of cemetery, are we then required to use cemeteries for all cremated remains?

Definitions should not restrict or prescribe; they only define. The definition is not trying to say we cannot bury cremated remains in a cemetery. Should we possibly include “excluding cremated remains” from the definition?

Secretary Cummings advised the Task Force that motions are not being taken at this time. We are taking opinions based upon the draft.

Cemetery Merchandise

To include in the definition of cemetery merchandise, opening and closing fees. If opening and closing fees are received before the opening and closing occur, this is a preneed sale and the preneed trusting requirements should apply.

The term “cemetery lot” will be replaced in each instance, with “burial space.”

The term “ownership” was questioned. Most cemetery deeds do not give ownership of the land, only the right to bury.

Trusting

Funeral director statutes require 100% trusting of preneed funeral services and merchandise and cemetery laws require 40% trusting. Consensus is that there should not be any “grandfathering” to change any pre-existing agreements.

Mr. Hansen referenced the letter dated 1995, from the Federal Trade Commission relating to their position on the joint ownership of funeral establishments and cemeteries. Actuarial reports and opinions from the Federal Trade Commission show 40% trusting of the retail amount is sufficient to protect the consumer and enhance competition.

Mr. Hansen noted that the definition in the draft proposal distinguishes between a licensed cemetery and a registered cemetery.

Opening and Closing Fees

It was recommended to expand the language to pertain to all burial spaces where a person could be interred.

Creation of Cemetery Associations

Mr. Hansen noted cemetery associations should be created through the Department of Financial Institutions for continuity and unity of these kinds of entities.

The Task Force discussed the criteria for regulation of small and large cemeteries. Size or acreage is important but also character should be taken into consideration. Small cemeteries would not have to file annual reports, but would have to do trusting, observe usual requirements relating to platting, conveyancing, etc., and the Department has authority to oversee their operations. The Task Force discussed a licensed versus a registered cemetery and possibly setting up three or four different criteria for qualification. If you fall under any one of them you are not exempt, and if you can not fall under all of them you are exempt.

Sale of Cemetery

It is the recommendation of the Task Force to include in the sale of cemetery, the transfer of management and operation of a cemetery.

The Task Force discussed additional reasons to deny the conveyance of cemeteries.

Should an examination be required of registered cemeteries as well as licensed cemeteries? A member stated that the examination is required, more small cemeteries will become abandoned.

Secretary Cummings stated some of the problems have come up because people do not know the state law. She stated some type of examination on state law should be required

Funeral Establishment

The Task Force discussed the funeral director, without pay, being able to provide certain kinds of low level services with regard to small non-profit cemeteries. The joint ownership issue will be coming up on the Legislature's agenda. There were mixed feelings as to whether the funeral directors should be involved in the cemeteries.

Secretary Cummings stands behind the agreement to get the state out of the way of telling who should be on a cemetery association.

Sales Contracts

It was noted that some of the requirements from section 157.10 should be included in section 157.09.

It was noted in the paragraph "Create a requirement"... to make the word "heir" plural and define what is meant by "more than an occasional sale."

Care and Maintenance of Existing Cemetery

The Task Force discussed "maintenance" in length. Some members felt the wording should be more generic, whereas others felt it should be more specific. There was discussion on the reasonable minimums of maintenance and care with regards to visitor safety, leveling of grave markers, edging, access, etc.

Abandonment of Cemeteries

The Task Force discussed the Milwaukee Plan and the addition of the neglected cemetery language from the Florida Task Force.

In summary the Task Force discussed registration requirements, licensing requirements, the fact that small cemeteries would not have to file financial reports, technical corrections, bonding requirements, and the proposed changes in the Biennial Budget Bill.

Secretary Cummings asked that if there are any recommendations on funding of abandonments, please let her know.

NEXT MEETING

The next meeting date will be decided after a statutory draft is ready.

ADJOURNMENT

The meeting was adjourned at 12:38 p.m.